

REMARKS

Claims 1-23 are pending in the application. Claims 1-9 and 16-22 have been held withdrawn as being drawn to a non-elected invention. Claims 10 and 12-14 have been amended. Reconsideration of this application is respectfully requested.

It is noted with appreciation that the Office Action has allowed claim 23.

Claim 10 has been amended by changing “for distributing” to “that distributes” and “for receiving” to “that receives”. Claim 10 has been further amended to recite that the first module provides “digital samples of a first voltage of said power at said main breaker” and that the second module provides “digital samples of a current of said feeder-breaker”. Claim 10 has also been amended to recite that the energy calculation is “based at least in part on said first voltage and said digital samples of said current of said feeder-breaker”. Claims 12 and 13 have been amended by changing “second current” to “current”. Claim 12 has been further amended to recite that the second module samples only the current of the power at the feeder-breaker. Claim 14 has been amended by changing “second voltage” to “current”.

The Office Action rejects claims 10-15 under 35 U.S.C 103(a) as unpatentable over U.S. Patent No. 3,660,721 to Baird, hereafter Baird in view of U.S Patent No. 5,420,799 to Peterson et al., hereafter Peterson.

This rejection is inapplicable to amended independent claim 10. Amended claim 10 recites that the first module provides digital samples of the voltage at the main breaker and that the second module provides digital samples of a current of the feeder breaker. Baird’s element 124 does not provide digital samples, but rather provides analog signals. Furthermore, Baird does not teach to base an energy calculation on a voltage of the main breaker and a current of the feeder breaker as recited in amended claim 10.

The Examiner admits that Baird does not disclose or teach a central computer that determines energy calculations, but contends that Peterson does. The Examiner then concludes that it would have been obvious to modify Baird by providing Peterson's central computer for determining how much energy is consumed "in such a time interval". This conclusion is erroneous for the reasons discussed below.

Peterson's central computer does not compute energy data from voltage and current supplied by the individual modules or meters, but rather reads energy data from the individual meters. Peterson calculates energy data at each module or meter. This calculated energy data is then sent to the central computer. In contrast, the claimed invention sends digital samples from the second modules to the central computer, which makes the energy calculations. Since the energy calculations are made at each meter, there is a need for each meter to have both a voltage sensor and a current sensor. In the present invention, only the central computer needs to have both voltage and current data, namely the voltage from the main breaker and the current from the feeder-breaker. This eliminates the need for voltage sensing devices at each of the second modules as in Peterson. Furthermore, Peterson's energy data is calculated based on voltage and current at the meter and not on a current of the second module and the voltage at the main breaker as recited in amended independent claim 10. Thus, the suggested combination of Baird and Peterson lacks the central computer the energy calculation as recited in amended independent claim 10.

Moreover, there is no motivation for one of ordinary skill in the art to combine Baird and Peterson. Baird describes a system for selectively tripping feeder-breakers in response to over currents while not tripping the main breaker. Peterson discloses an entirely different system in which energy data of a plurality of meters is collected by a central computer for the purpose of billing the user of each meter for energy consumption. The Office Action provides no motivation for one skilled in the art to combine Peterson's meter reader and billing system with Baird's breaker tripping scheme.

The Office Action suggestion to use Baird in combination with Peterson is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

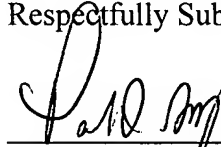
For the reasons set forth above, it is submitted that the rejection of claims 10-15 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

The Office Action cites a number of patents that were not applied in the rejections of the claims. These patents have been reviewed, but are believed to be inapplicable to the claims.

Noting that claim 23 is allowed, it is respectfully requested for the reasons set forth above that the rejections under 35 U.S.C. 103(a) be withdrawn, that claims 10-15 also be allowed and that this application be passed to issue. Should the application be passed to issue, the Examiner is authorized by Examiner's Amendment to cancel withdrawn claims 1-9 and 16-22 without prejudice or disclaimer.

Respectfully Submitted,

Date: 6/23/05



Paul D. Greeley
Reg. No. 31,019

Attorney for Applicants
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
(203) 327-4500